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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/620,715	07/20/2000	Hiroshi Niimi	FUJO 17.577	3322

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EXAMINER
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RYMAN, DANIEL J

ART UNIT	PAPER NUMBER
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2616

DATE MAILED: 11/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/620,715	<b>Applicant(s)</b> NIIMI ET AL.	
	<b>Examiner</b> Daniel J. Ryman	<b>Art Unit</b> 2616	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 September 2006.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4 and 6-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 6-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-4 and 6-14 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-4 and 6-14 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicant has amended independent claims 1, 9-11, and 13 to recite: "when the number of picture data to be transmitted does not exceed a predetermined threshold number" and "when the number of picture data to be transmitted exceeds the threshold number." Here, the phrases "number of picture data" and "threshold number" are vague and indefinite since it is unclear how Applicant defines "data," and thus how Applicant defines "number of picture data." The Authoritative Dictionary of IEEE Standards Terms defines "data" as "a representation of facts, concepts, or instructions in a formalized manner suitable for communication, interpretation or processing by a programmable digital computer." Thus, the claims seem to require an exact number of "representations of facts, concepts, or instructions" to be measured and compared against a threshold, where Examiner assumes that these "representations of facts, concepts, or instructions" are one of bits, bytes, packets, etc., i.e. an absolute measure of the number of information segments transmitted. However, Examiner also assumes that the measurement of data has a time component to it since it is difficult, if not

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impossible, to measure an absolute number of data to be transmitted in a system and compare this number to a threshold, when the measurement of the number of data is not bounded by a period of time. For example, assuming the measure of data is bits, the threshold is 25 bits, and the system transmits at a predicted 5 bits/sec, then the system will only exceed the threshold if the period of measurement is greater than 5 seconds (i.e. in the fifth second, the system will transmit the 25<sup>th</sup> bit and therefore exceed the threshold). Simply, since the amount of data transmitted increases with time, whether the system will exceed the threshold turns on the length of period the measurement is taken over. Thus, it seems that Applicant did not intend to define “data” as encompassing strictly a measurement of the number of information segments transmitted, but rather as encompassing a measurement of the number of information segments transmitted in a given time. Such a measurement would suggest the use of bandwidth, which is a measure of bits/second; however, Applicant substituted the phrase “number of picture data” for “total bandwidth allocated to the logical channels,” such that it appears that “the number of picture data” is different than the “total bandwidth allocated to the logical channels.” Therefore, Examiner is unsure how “number of picture data” is to be measured, and thus Examiner cannot determine the exact metes and bounds of the claim. Applicant should amend the claims to clarify exactly what constitutes “the number of picture data to be transmitted.” Examiner notes that Applicant used the phrase “a number of picture data” earlier in the claims (see the limitation of the allocation unit); however, this phrase was interpreted to mean “an amount of data,” such that a logical channel with a greater amount of data to be transmitted is allocated a greater bandwidth.

4. In addition, claims 1, 9-11, and 13 have been amended to recite: “allocates a predetermined first bandwidth to each of the logical channels when the number of picture data to

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be transmitted.” It is unclear from the claim whether “the number of picture data to be transmitted” is measured with respect to a single logical channel or for all of the “plurality of logical channels used to transmit picture data.” Simply, “the number of picture data to be transmitted” should be one of: “the number of picture data to be transmitted by a single logical channel” or “the number of picture data to be transmitted by the plurality of logical channels.”

### *Conclusion*

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel J. Ryman whose telephone number is (571)272-3152. The examiner can normally be reached on Mon.-Fri. 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Huy Vu can be reached on (571)272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
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Art Unit 2616